

MEDIA RELEASE



**Attention: News Director
For Immediate Release
February 9, 2007**

**U.S. DEPARTMENT OF JUSTICE
DAVID L. HUBER
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Western District of Kentucky**

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**UNITED STATES OBTAINS CRIMINAL COMPLAINT AGAINST TODD SMITH AND
SYBIL SMITH FOR ALLEGED MAIL AND WIRE FRAUD**

David L. Huber, United States Attorney for the Western District of Kentucky, and Tracy Reinhold, Special Agent in Charge of the Federal Bureau of Investigation in Kentucky, announced today the filing of a criminal complaint against Todd Edward Smith (a.k.a. Todd Kelly), age 36, of 1308 Blackberry Drive, in Jefferson County, and Sybil Smith, 203 Woods Road, in Hardin County, on charges of mail fraud and wire fraud. A federal Magistrate Judge has issued a warrant for the arrest of Todd E. Smith, a/k/a Todd E. Kelly. A Summons was issued to his mother, Sybil Smith, to appear before the Magistrate Judge at 9:15 a.m. on February 20, 2007.

According to the Federal Bureau of Investigation affidavit of Special Agent Lawrence Elbert, in 2001 Todd Smith announced to family, friends and coworkers that he had been diagnosed with Amyotrophic Lateral Sclerosis (ALS), also known as Lou Gehrig's disease, and that doctors had told him he had three to five years to live. In 2002, Todd Smith announced that he was establishing the Todd Kelly Foundation to raise money for ALS research. On its website, the Todd Kelly Foundation stated: "by making a tax deductible donation to the Todd Kelly Foundation-ALS Research, you are directly funding the ground-breaking research that will one day provide treatments and a cure for this devastating disease," and "OVER 80 CENTS OF EVERY DOLLAR YOU GIVE

GOES STRAIGHT TO SCIENTIFIC RESEARCH. We promise that your donation will be used wisely and effectively."

Over the next several years, Todd Smith held various fund raising events to generate funds for the Foundation. Smith solicited and received thousands of dollars in donations from hundreds of donors by interstate wire and United States mail. These fund raisers were often advertised on both television and radio broadcasts. Throughout the various fund-raising events, Smith continued to assert that he suffered from ALS and frequently sent emails and letters updating potential donors on his medical condition.

In 2004, Todd Smith alleged that in addition to ALS, he was also suffering from bone cancer, and that he might lose both of his legs. Todd Smith also claimed that he was in thousands of dollars of debt resulting from ALS and cancer related medical expenses that were not covered by insurance. In addition to the fund raisers held on behalf of the Todd Kelly Foundation, fund raisers were also held to benefit Todd Smith directly, to offset his uncovered medical expenses. These events raised thousands of dollars in additional donations, paid directly to Todd Smith.

A review of Todd Smith's medical records dating back to the mid 1990s do not reflect any diagnosis of either ALS or cancer, and his primary care physician never diagnosed him with either ailment.

The Todd Kelly Foundation's Fifth Third Bank account records reflect that contrary to the representations on its website, no Foundation funds were contributed to ALS research. Sybil Smith was the Todd Kelly Foundation's Treasurer and was an authorized signer on the Foundation's bank account from its inception until May 2005. As Treasurer, Sybil Smith paid bills, reviewed bank records, and deposited donations made to the Todd Kelly Foundation.

On the other hand, analysis of the Todd Kelly Foundation account withdrawals reflects,

among other things, that Todd Smith used Todd Kelly Foundation funds to pay for other fund raisers and to pay for thousands of dollars of his own personal expenses, including car payments, car insurance payments, cable and telephone bills, meals at restaurants, limousines, vacations, and alcohol.

United States Attorney David L. Huber praised the efforts of David Stengel and his Commonwealth Attorney's Office, the Kentucky State Police, and the Federal Bureau of Investigation in their effective response to these very serious offenses. Huber said the two offices had been working together on this for months. The case was originally initiated by the Kentucky State Police and the Commonwealth Attorney's Office.

The case is being prosecuted by Assistant United States Attorneys David Weiser and Ann Claire Phillips.

In the event of a conviction, the maximum potential penalties are 40 years imprisonment, a \$500,000 fine, and supervised release for a period of at least 3 years. There is no parole in the federal judicial system.

A criminal Complaint is an accusation only and that person is
presumed innocent until and unless proven guilty

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